G. R. S. IX-5]

Previous references.

1918.

(Mus)

File No. 473-

Serial Nos.

1-4

Later references.

159-52-1-2

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Part B for Nagpur

SUBJECT.

Review petn re inam lands of Hadinam village endowed to Ghati Math

---

D.O. Mysore Dt

No 3441 Dy 7.5.19

Dismissing the ——

W D 1250—GPB—30,000 28-1-19

Chus

G. R. S. III—1] 191 8.

GENERAL AND REVENUE SECRETARIAT.

(Muzrai)

NOTES.

File No. 473-18

FILE HEADING.

Review petition re the inam lands in Kadiramangalam Vill. Nanjangud Taluk endowed to Gachi Mutt at Mysore.

From

Basappa Desaru of Gachi Mutt, Mysore.

No. Dated 8-2-19 Received 9-2-19

Diary No.	Enclos.	Spare Copies.	Serial No.
1347	1	—	11

BRIEF ABSTRACT OF LETTER.

A. Prays that on a re-consideration of G.O. no. 1407 Dy 8th Jany. 1919, it may be ordered that petitioner is entitled to the ownership of the soil and that Sharists are non-hereditary tenants.

NOTES AND ORDERS.

A Muz. J. no. 261-14 on the subject is put up. On an examination of the entire records and the exhibits produced by the parties, and after hearing the parties and their Advocates, orders were issued holding that the respdt (the

NOTES—First Sheet.

WD 1232—GPB—20,000—18 11-18

G. R. S. III-2]

General and Revenue Secretariat. | MWZ File No. 473 of 191

Serial No.

present petr) has yet not exercised the full rights of ownership at any time, That the appts are Kadim Tenants by virtue of their uninterrupted enjoyment for nearly 70 years &c.

Basappa Devara now seeks a revision of the foregoing order — The revision application is in time and details the grounds for appeal.

Submitted for orders.

11.2.19

The preferred appeal (Appln) reads the points raised in the order which has been passed after giving a hearing to the parties to the case. The revision is in time, and the records which have but recently been rect'd & the Dy. Com'r may perhaps be called for & the grounds now put forward considered.

11.2.19

There do not seem to be any adequate grounds for revision.

12/2/19.

Seen.

392
14.2.19.

NOTE—Contn. sheet.

(3.

1464

G. R. S. III-2]

General and Revenue Secretariat.

File No. 473 of 191 6.

Serial No.	
	Shall hear the petr's advocate as to the admissibility of this petn. Post to some date next month — 15-11-16
	Lea 18-2-16
2	From, Basappa Devara of Sakleshpur Petition without date. Alleges that he has been paying the Kandayam on the land in dispute for the past 7 or 8 years, and prays that pending disposal of his review, the Opponents may not be allowed to remove the crops without furnishing sufficient security. The Review petition will be heard by the Members on 11th April next. Endorsed for orders.
	3-3-1916 The Petr's advocate will be heard as to the admissibility. The review applcn filed, on 11. 4. 16 Shows wh the records be called for? Perhaps it is not nec?. The applt now prays that pending disposal of his review the crops now standing on the lands may not be removed.
	3/8/16

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat.

Mus — File No. 47 of 1918.

Serial No.

No Separate orders are called for at the present stage. Notice will issue to Petr as directed above. Subd for orders.

Secy.) 3/3/19.

The petitioner may be informed that Govt see no reason to move in the matter at the present stage

628 4.3.19

(Mr. Marsden) 4/3/19

5/3/19

5/3/19

Submts with a draft notice

AN 6/3/19 6/3/19

Secy.) 6/3/19.

3 Enot to Petr 7/3/19.

Submts with draft notice to the Petn Advocate

AN 11.3.19 11/3/19 Appd

NOTE—Contn. sheet.

Muzrai Case No.7 of 1917-18

(Posted for admission).

-:0:-

S U B J E C T:- Restoration after eviction of the Madam tenants, of endowed lands belonging to the Gachi Matt and Mysore.

F A C T S:- Government Order No.1717/Muz.261-14-28 dated 8th January 1919, decided that the applicant is only entitled to the revenues from the -- lands and has no power to eject the tenants. This order is now sought to be reviewed.

* * * * * * * * *

Heard Mr. K. Venkatachar for petr.

HRR-2.

Order.

This is an ~~petition~~ application for review of the decision in G.O. of 8th Jan 1919; we regard a re-hearing of the points already urged on behalf of the petr and considered by Govt in passing that Order, no new points have been raised. The Sanad of 1827 gave the ~~original~~ Matt lands of the value of 3f. varahas as remuneration; ~~but it cannot be~~ the lands to be selected by the then holder of the matt; but it cannot be inferred from this that any such lands and however limited be in derogation of the rights of the occupants of any of the lands. Apart from this, there is nothing ~~to~~ ~~show~~ to show that either the present ~~petitioner~~ petitioner or their predecessors in inter-

derived their title from the Druitt. On the contrary, the records produced show that there have been disputes ~~about~~ almost from the very beginning between the Druitt & the Weigels. ~~I have thought~~ An order of 1865 passed by Super- ~~pro~~ upon a petition of the Weigels. Upon hearing the matter has been produced on behalf of the pet.r; but it does not bear indication of it having been passed after hearing & upon the merits, nor is there anything to show that the Weigels who contested the matter were heard. As the order is referred to there was apparently nothing more than the person which was for some time with possession while making it. I do not find on behalf of the matter.

In these circs there are no grounds for ~~staying~~ varying the order passed & the petn is dismissed.

12/4/19

16.4.19

G. R. S. 111-2]

General and Revenue Secretariat.

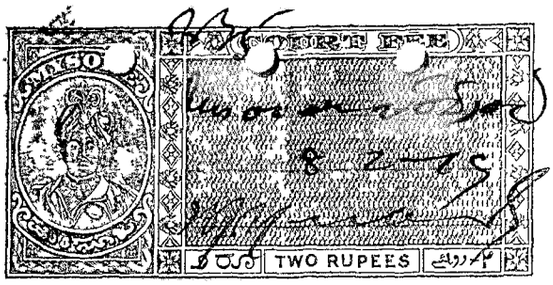
File No. 473 of 1918.

Serial No.	
	Submitted with a DFT. for approval.
	21.4.19 22.4.19
	Secy.
	Addl Secy
	24/4/19.
4	To Hy. Commissioner
	No. 2461 G. T. C.
	Copy
13)	

NOTE—Contn. sheet.

WD A 1789—GPB—60,000—20 8 18—S.

Presented in person
8/2/19.



1347
19
Muzrai
478-18

325
8.2.19

Before the Government of His Highness the Maharajah of Mysore.

Revision Petition of 18-19.

Petitioner.	Opponents.
Basappa Devaru, of Gachi Mutt, Mysore,	(1) Sirdar Putta-Basavaraj Urs (2) Lingiah, Madiah & other ryots.

Under Sections 217 and 218 of the Land Revenue Code, and Section 22 of the Muzarai Regulation, the humble petitioner most respectfully sheweth as follows:-

(1) That the decision of Government in appeal Muzarai No.21 of 1918 is based on data not supported by the facts in the case, as will be shown later on.

(2) That the construction of the sanad of 1827, and the presumption of a kadim or permanent tenancy are points of law, at least mixed questions of fact and law, and the petitioner, therefore, humbly begs that Government will be graciously pleased to reconsider their order in the light of the humble submissions of the petitioner, which, he firmly believes, clearly point out sufficient reasons for reversing the decision.

(3) The petitioner begs to humbly submit that --- Government have based their decision on the following data:-

(a) that the opponents and their predecessors in title have been in uninterrupted enjoyment of the lands

from

from the time of the grant in 1827.

(b) that though the nature of the payment of revenue varied from time to time, yet there was -- no actual change of tenancy at the instance, or under the authority, of the landlord.

(c) that the opponents are kadim tenants by virtue of their uninterrupted enjoyment for nearly 70 years.

and (d) that the lands granted under the sunnud of 1827 were occupied lands i.e., Manager of the Mutt -- excercised his right only to the collection of the revenue due to him.

(4) With great respect, the petitioner most humbly begs to submit that the finding, that the opponents derived their title from their predecessors, is incorrect for:-

(i) the opponents themselves have stated in their depositions that they do not know how they got the lands.

(ii) They do not allege, much less have they proved, that they were purchasers or mortgagees or --- descendants, from the predecessors in title and how and when the lands came to their hands.

(iii) they have not shown that they succeeded those previously cultivating the lands without any break.

(iv) a perusal of the Vathuvari and Kulavera chits disclose that the opponents are of a different --- caste from those cultivating the lands previous to them.

(V) that the opponents admit they are cultivating the lands since 1868 only.

(5) The petitioner further respectfully submits that the finding that the opponents were in enjoyment of the lands from the time of the grant in 1827 and --- that uninterruptedly is not correct for:-

(i) the enjoyment of the lands by the ---- opponents dates only from 1868 downwards.

(ii) the link between opponents and those who cultivated the lands previously has not been shown .

(iii) the learned Deputy Commissioner himself concludes that it is not clear how these lands were being enjoyed by the Mutt till about the year 1868.

(iV) that many of the opponents have not proved by documentary evidence that they have been continuously in possession and enjoyment of the lands, since 1868 without any break in the middle.

(V) that the rent they began to pay from 1868 was only that which was being paid by the previous cultivators.

(6) The petitioner further begs to state that the finding that thourh the nature of the payment -- varied from time to time, yet there was no actual --- change of tenancy at the instance, or under the ---- authority, of the landlord is not supported by the facts of the case, for:-

(i) Opponents have not attempted, much Less to prove, that the cash payment that they began to pay from 1868 was only the equivalent in value to the rent in kind paid by the previous cultivators.

(ii) the opponents were actually the successors

of

of the previous holders of the lands.

(iii) the change was brought about at their instance only, as the burden of proving permanent tenancy lay heavily on them.

(iv) the landlord accepted the change in tenancy.

On the other hand, the issue of fresh pattas by the petitioner's predecessor and the change in kind of the rent paid, coupled with the fact that the change was not brought about by purchase, mortgage or inheritance clearly prove that the change must have been at the instance of the landlord only.

(7) The petitioner further most respectfully begs to submit that the finding that the opponents are kadim tenants by virtue of their uninterrupted possession for nearly 70 years is not correct for:-

(i) No uninterrupted enjoyment for 70 years is proved, as already submitted.

(ii) there is no evidence to show that the tenants were cultivating the lands at the time of the grant and that they were predecessors in title of the opponents.

(iii) the payment of rent as contemplated in Section 84 of the Land Revenue Code, is not proved. On the other hand, it is humbly submitted that the -- imposition of a cash rent is an alteration of the --- previous rent in kind and dis-proves kadim tenancy.

(8) The petitioner further begs to submit that the could not be permanent tenants either as ----- contemplated

contemplated ~~by~~ in Section 74 of the Land Revenue Code or on general principles of law, for they have not shown any of the following or other characteristics from which it would be reasonable to presume permanent tenancy:-

(1) Successive transfers.

(2) Descent of the tenure from father to son.

(3) Subdivision of the tenancy without objection from the landlord.

(4) uniform payment of rent.

(5) The origin of tenancy being unknown.

On the other hand, the petitioner submits that mere possession for a long time ~~and even successive possession for a long time~~ at an invariable rent cannot create a presumption of permanent tenancy.

(9) The petitioner humbly submits that, in the circumstances of the case, Government were not justified in assuming the burden of proof lay on the petitioner, as the ordenary presumption of law, in the absence of distinct circumstances to point out the permanency of tenure, is a tenure from year to year.

(10) The petitioner further most respectfully submits that the construction put on the terms of the sunnud by Government that the grant was of the revenue only and not of the soil is ~~offered~~ opposed to law and circumstances of the case, for:-

(i) the recitals in the deed may be read in two different ways altogether.

(ii) there is no evidence, much less specific evidence, to show that the lands at the time

of

of the grant were in possession of tenants.

(iii) there is no express limitation or restrictions of the rights granted to the petitioner's predecessors in title.

(iv) the circumstances subsequent to the grant do not point out any limited nature in the grant at all.

(v) the object of the grant will be frustrated, if a narrow meaning is given.

On the other hand, the petitioner begs humbly to represent that it is reasonable to conclude, in the absence of any specific limitations, that the grant was absolute in nature and this is so under the circumstances of the case and especially in view of the fact that it was meant for the support of a living personage who had earned royal favour. There could not be in the mind of the granter any specific object of preserving the property -- for generations as in the case of grant of lands to idols &c.

(11) That the orders of the Superintendents of Astagram Division in 1843 and in 1858 as well as other records filed in the case clearly prove that the grant was of the soil also, and the petitioner humbly submits that there is no reason to doubt their weldeness or -- correctness.

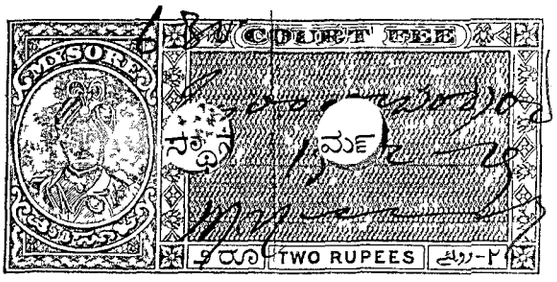
(12) For these reasons, the petitioner therefore humbly and respectfully prays that Government will be ---- graceously pleased to peruse the records in the light

of

of the submissions of the petitioner and be gracious to reverse the decision by holding that petitioner is entitled to the ownership of the soil and that opponents are not permanent tenents.

8th February 1919.

Advocate. Dcdy 8/2/19.



Before the Government of His Highness
the Maharaja of Mysore.

58791

Muzrai Misc application of 18-19

Applicant

Basappa Devaru
of Gachi Mutt
Mysore

Opponents

Sardar Rattabasavaraj
Urs and others.

The applicant begs to submit as follows:—

1 That the opponents had appealed to Government from the order of the Deputy Commissioner of Mysore directing them to pay mesne profits to the applicant and the appeal registered as appeal Muzrai no 21 of 1918 and heard and decided in their favour

2. During the pendency of the appeal, Government was pleased to direct that security should be taken from the opponents according to the endowment granted to the applicant (herewith produced) but that was not done by the Deputy Commissioner as he has taken only Self-recognisances from the opponents

3 That the applicant now sought for a review of the decision of Government in the appeal disposed of and he begs to submit that he has an arguable case.

4 That many of the opponents are men of no substance and in case the applicant succeeds in getting the review sought for it is impossible to recover the past mesne profits from the opponents and the petitioner will be put to serious and irreparable loss

5. The petitioner begs to submit that even since the appeal filed by the opponents is for the last 7 or 8 years, he himself has been paying the entire Kandayam due to Government without recovering anything from the opponents.

6. He therefore humbly prays that Government may be graciously pleased to direct that, pending review proceedings, the opponents should furnish substantial security to the satisfaction of the petitioner and the Deputy Commissioner.

G. R. S. VII—6/8]

ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಶ್ರೀಮತ್ ಮಹಾರಾಜರವರ
ಗವರ್ನಮೆಂಟ್ ಜನರಲ್ ಮತ್ತು ರೆವಿನ್ಯೂ
ಸೆಕ್ರಟೇರಿಯೆಟ್‌ನಿಂದ.

ಅರ್ಜಿದಾರ ..... ತಾಲ್ಲೂಕು

..... ಹೋಬಳಿ

ಮೈಸೂರಿನಲ್ಲಿರುವಗಣಿಪುರದ ..... ಗ್ರಾಮದಲ್ಲಿರುವ

ಶಾಸನಪ್ರಾಥಮಿಕ ಶಾಲೆ ——— ಗೆ.

2007

Mur 261-14-19

ಇಂಡಾರ್ಸ್ ಹುಕುಂ.

ನಂಬರು ..... ಬೆಂಗಳೂರು, ತಾರೀಖು 14. 2. 191 ?

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ಸದರಿಗ್ರಾಮದ ಇನಾಮು ವಿಜಮಿನು ಪಟ್ಟಾಮಾಡಲು

ವಿಷಯದಲ್ಲಿ ನೀವು ಗುಜರಾಯಿಸಿಕೊಂಡ 1275 ನಂ.
22-1-18

ಮರುಮನವಿ ಅರ್ಜಿಯನ್ನು ಪರಿಶೀಲಿಸಿ ವಿಷಯವನ್ನು ಸಿದ್ಧಪಡಿಸಿ ಕಳುಹಿಸಿದ್ದು

ನಿಮ್ಮ ದೊರಕೆಯಂತೆ ಜಮೀನ್ ಪಟ್ಟಾಲನ್ನು

ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು ಅನುಮೋದಿಸಿದ್ದು ಈಚೆಗೆ ಕಳುಹಿಸಿದೆ.

ಅವಶ್ಯಕವಾದಮಾನುವಿನ ದುರಸ್ತಿಗೆ
ತು ಇನಾಮು ತಕ್ಷಿಜಮೀನ್ ಮೇಲಿರತಕ್ಕ ಪಟ್ಟಾಲನ್ನು
ಅಪೀಲು ಮಾಡಿಕಳುಹಿಸಿಬಿಡಬೇಕೆಂತಾಗಿ
ಕೊಂಡ್ಡಿ ಡೆಪ್ಯುಟಿಕಮೀಷನರವರಿಗೆ ಅಲಾಹಿದಾಖ್ಲುರವಾ
ರು ಕೈ.

By Order,

For Secretary to the Government.

WD 02178—GPB—500—25-5-17

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

GENERAL AND REVENUE SECRETARIAT,
( )
, *the* 191 .

Date of issue.....10.3.1919.....

Signed by.....M.C.M. Ladlaw.....
Dy. Secy.

Section

File No. 47-18

Serial No. 3

Endorsement

No. 271

To

~~Endorsement granted to Basappa~~
Bazaptha
~~Diwan of Gachi Mutt, Mysore~~,

with reference to his application received on 14th Feby. 1919 praying that pending disposal of his review petition for a re-consideration of the order of Govt. relating to the inam lands in Hadinaru Village, Nanjangud Taluk, enclosed to the ~~Gachi~~ Gachi Mutt, the applicants may not be allowed to remove the crops on the lands in...

over.

furnishing substantial security; Basappa Diwan
of Mudgachi mall, Mysore
~~the petitioner~~ is informed
that Govt see no reason to move
in the matter at the present
stage of the case

By order
Sd
7.3.19
Joint Secretary
Muz. Dept.

DA
DB
Sd/19. 6-3-19

List of enclosure

Copied by

Examined by

WD 86—GPB—60,000—15-11 16

(G)

Before the Government of His Highness the Maharaja of Mysore.

473-18-2

Appeal No. 7 of 1918-19

Appellant. vs. Respondent.

Basappa Devaru of Gachi mall, Mysore

Subject. Review application praying that on a reconsideration of Govt. order no. 1419/Mus. 261-14-25 dy 8th Janry. 1919 the inam lands in Hariharapura village of the Nanjangud Taluk endowed to Gachi mall at Mysore may be restored to the petitioner ~~after inviting~~ after hearing the ~~Karbhari Devaru~~.

Decision The case was heard on 11th April 1919, the petitioner being present in person.

GPS—1,000—8-8-11

re presented by his Advocate
Mr. V. Venkatachar.

This is an application
for the review of the decision
passed in the Suit under of
8th January 1919; but beyond
a re-iteration of the points
already urged on behalf of the
petn. and considered by Suit
when passing that order,
no new points have been
urged. The Samud of 1827
gave the Matt lands of the
Value of 36 Varahs, as
Sarvamanya, the lands to
be selected by the then
holders of the Matt; but it
cannot be inferred from
this that any selection of
lands by such holder would
be in derogation of the
rights of the occupants
if any, of the lands.
Apart from this, there is
nothing whatever to show
the present
gate or their

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

predecessors in interest derived their title from the matt. On the contrary, the records produced show that there have been disputes almost from the very beginning between the matta and the raigals. An order of 1865 passed by a Dy. Supt. upon a petition of the then holder of the matt has been produced on behalf of the petr., but it does not bear any indication of its having been passed after inquiry and upon the merits, nor is there anything to show that the raigals who contested the matts' rights were ejected, the result of the order, the possession which is referred to, There was apparently

more than the possession which was for some time with Govt. while managing the lands on behalf of the Matt.

In these circumstances, there are no good grounds for reviewing the order already passed. The petition is dismissed.

Memo. No. Dy 3444 / Mis. 473-18-Dy

Dy. 7.5.19

Copy to the Dy. Comm^r, Nilgiris for info, in connection G.O. No. 1414 / Mis. 261-14-25 Dy 8-1-1919.

By order
M. A. M.
Secretary,
Mis. Dept.

28/4/19. Dy 22.4.19

Copy to Mr V. Venkatachari, the petr.

B. O. M.
Secretary,
Mis. Dept.

GPB—20,000—16-2-14